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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket No. 02-117-1]

Exotic Newcastle Disease; Designation of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the exotic Newcastle disease regulations by quarantining Los Angeles County, CA, and portions of Riverside and San Bernardino Counties, CA, and restricting the interstate movement of birds, poultry, products, and materials that could spread exotic Newcastle disease from the quarantined area. This action is necessary on an emergency basis to prevent the interstate spread of exotic Newcastle disease from the quarantined area.

DATES: This interim rule was effective November 21, 2002. We will consider all comments that we receive on or before January 27, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-117-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-117-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ``Docket No. 02-117-1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the Federal Register, and related

information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Aida Boghossian, Senior Staff Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737-1231; (301) 734-8073.

SUPPLEMENTARY INFORMATION:

Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The END regulations, contained in 9 CFR 82.1 through 82.15 (referred to below as the regulations), were established to prevent the spread of END in the United States in the event of an outbreak. Section 82.3, paragraph (a), provides that any area where birds or poultry infected with END are located will be designated as a quarantined area. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as the regulations. The regulations restrict the interstate movement of birds, poultry, products, and materials that could spread END from quarantined areas. Prior to this rule, no areas were listed as quarantined in Sec. 82.3(c) because of END.

On October 1, 2002, END was confirmed in the State of California. The disease has been diagnosed in backyard poultry, which are raised on private premises for hobby, exhibition, and personal consumption. At this time, commercial poultry are not involved in the disease occurrence.

The State of California and the Animal and Plant Health Inspection Service have begun an intensive END eradication program in the quarantined area in Los Angeles, Riverside, and San Bernardino Counties. Also, California has taken action to restrict the intrastate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

Accordingly, to prevent the spread of END into other States, we are amending Sec. 82.3(c) by designating Los Angeles County and portions of Riverside and San Bernardino Counties, CA, as a quarantined area for END. The quarantined area is described in the rule portion of this document.

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Emergency Action

This rulemaking is necessary on an emergency basis to prevent END from spreading to other States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the Federal Register.

We will consider comments that we receive during the comment period for this interim rule (see DATES above). After the comment period closes, we will publish another document in the Federal Register. The

document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the END regulations by adding Los Angeles County and portions of Riverside and San Bernardino Counties, CA, to the list of quarantined areas. The regulations restrict the interstate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 82 is amended as follows:

PART 82--EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

1. The authority citation for part 82 is revised to read as follows:

Authority: 7 U.S.C. 8304-8306, 8308, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

2. In Sec. 82.3, paragraph (c) is revised to read as follows:

Sec. 82.3 Quarantined areas.

* * * * *

(c) The following areas are quarantined because of END:

California

Los Angeles, Riverside, and San Bernardino Counties. All of Los Angeles County. That portion of San Bernardino County south of State Highway 58 and bounded by an imaginary line beginning at the intersection of the Kern County line and State Highway 58; then southeast along State Highway 58 to Interstate Highway 15; then south along Interstate Highway 15 to State Highway 247; then southeast along State Highway 247 to State Highway 62; then south along State Highway 62 to the Riverside County line. That portion of Riverside County south of the Riverside County line and bounded by an imaginary line beginning at the intersection of State Highway 62 and the Riverside County line; then south along State Highway 62 to Interstate Highway 10; then southeast along Interstate Highway 10 to State Highway 111 (Golf Center Parkway); then south along State Highway 111 to State Highway 86; then southeast along State Highway 86 to the Imperial County line.

Done in Washington, DC, this 21st day of November, 2002.
Peter Fernandez,
Acting Administrator, Animal and Plant Health Inspection Service.
[FR Doc. 02-29987 Filed 11-25-02; 8:45 am]

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